

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONSUMER FINANCIAL PROTECTION
BUREAU and THE PEOPLE OF THE
STATE OF NEW YORK, BY LETITIA
JAMES, ATTORNEY GENERAL FOR THE
STATE OF NEW YORK,

Plaintiffs,

-against-

RD LEGAL FUNDING, LLC; RD LEGAL
FINANCE, LLC; RD LEGAL FUNDING
PARTNERS, LP; and RONI
DERSOVITZ,

Defendants.

17-cv-890 (LAP)

ORDER

Loretta A. Preska, Senior United States District Judge:

Before the Court is RD Legal's motion to compel third-parties Tyrone Bertrand and Philip Kirschner to appear for depositions on October 27 and 28, 2022, respectively. (Dkt. No. 191.) On October 12, 2022, the Court invited responses to the motion from CFPB and Messrs. Bertrand and Kirschner (dkt. no. 192), and on October 14, 2022, the CFPB responded (dkt. no. 193).

Tyrone Bertrand was personally served with a deposition subpoena that noticed his deposition to take place on September 14, 2022, in New York at the offices of RD Legal's counsel. On September 14, 2022, Mr. Bertrand failed to appear for his deposition.

Philip Kirschner was personally served with a deposition subpoena on September 6, 2022. Counsel for RD Legal thereafter spoke with Mr. Kirschner by telephone, and Mr. Kirschner and RD Legal agreed to reschedule the deposition for October 11, 2022, to accommodate Mr. Kirschner's schedule. On October 3, 2022, RD Legal personally served Mr. Kirschner with a revised subpoena reflecting the agreed upon October 11, 2022, date. On October 11, 2022, Mr. Kirschner failed to appear for his deposition.

Tyrone Bertrand and Philip Kirschner are hereby ORDERED to appear for depositions on October 27 and October 28, 2022, respectively, at the offices of RD Legal's counsel in New York. If Mr. Bertrand and/or Mr. Kirschner are unable to attend the deposition on the appointed date at the appointed location for good cause, they shall be proactive and promptly communicate with counsel for RD Legal to request an alternative date and/or location. In other words, the onus is on Mr. Bertrand and Mr. Kirschner to reach out to RD Legal's counsel to request an accommodation. RD Legal and Plaintiffs shall work cooperatively to accommodate a reasonable request by Mr. Bertrand and/or Mr. Kirschner to, for example, help facilitate the taking of a remote deposition.

Counsel for RD Legal shall promptly serve compliant deposition subpoenas consistent with this order upon Messrs.

Bertrand and Kirschner and shall append a copy of this order thereto. Failure to comply with the subpoenas or this order may result in sanctions, including possible monetary or incarceratory penalties for contempt of court pursuant to Federal Rules of Civil Procedure 37 and 45 and this Court's inherent authority.

SO ORDERED.

Dated: New York, New York
October 14, 2022

A handwritten signature in black ink, reading "Loretta A. Preska". The signature is written in a cursive, flowing style.

LORETTA A. PRESKA
Senior United States District Judge